



March 25, 2003

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## ENGROSSED HOUSE BILL No. 1242

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DIGEST OF HB 1242 (Updated March 19, 2003 4:59 PM - DI 87)

**Citations Affected:** IC 5-13; IC 6-1.1; IC 8-17; IC 8-23; IC 20-14; IC 36-1; IC 36-2; IC 36-4; IC 36-6; IC 36-8; IC 36-10; noncode.

**Synopsis:** Various local government matters. Requires the investing officer of most political subdivisions to use multiple depositories. Removes the requirement that multiple depositories be used for investment certificates of deposit. Removes the requirement of certifying a budget transfer within a political subdivision to the county auditor. Allows a fiscal officer to appropriate insurance receipts. Makes changes to the law concerning the annual road and street report. Requires a transfer to a local rainy day fund to be made after the last day of the fiscal year and before March 1 of the subsequent calendar year. Provides that a local rainy day fund may be established only by ordinance or resolution. Repeals a requirement that a fiscal body find that the proposed use of a local rainy day fund is consistent with the intent of the fund before appropriating money from the fund. Allows a political subdivision to collect a charge from a credit card user to cover costs charged to the political subdivision for accepting credit cards. Changes the deadline for adoption of a police and firefighter salary ordinance in a second class city from August 20 to September 20. Allows a municipality with a fire department to establish a hazardous

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**Effective:** July 1, 2003; January 1, 2004.

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### Ayres, Stevenson

(SENATE SPONSORS — SKILLMAN, DEMBOWSKI)

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January 13, 2003, read first time and referred to Committee on Local Government.  
February 18, 2003, amended, reported — Do Pass.  
February 27, 2003, read second time, ordered engrossed. Engrossed.  
March 3, 2003, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

March 4, 2003, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.  
March 24, 2003, amended, reported favorably — Do Pass.

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EH 1242—LS 6773/DI 87+



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## Digest Continued

materials response fund for the deposit of service charges imposed for hazardous materials emergencies. Restates the annual meeting of the township legislative body in accordance with IC 36-6-6-9. Eliminates the requirement that deputies and other employees of a township assessor and other assistants in township offices be paid on a monthly basis. Eliminates the prohibition on distributing money from the public mass transportation fund to a public transportation corporation in Marion County. Provides that a contract for a cash management system may be renewed with the same or better terms if the county fiscal body or political subdivision and fiscal officer of the political subdivision agree to the renewal. Allows an agent of the county treasurer to serve a written demand for delinquent personal property taxes. Creates deadlines for processing of refund claims from the county surplus tax fund. Repeals a statute that requires the fiscal officer of South Bend and Mishawaka to deposit city funds with the county treasurer and the county treasurer to disburse city funds upon receipt of city warrants. Removes a provision that provides that the duties of the city fiscal officer of South Bend and Mishawaka with regard to the sale of bonds shall be performed by the county treasurer of St. Joseph County.

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**EH 1242—LS 6773/DI 87+**



March 25, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1242

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) All public funds of all  
3 political subdivisions shall be deposited in the designated depositories  
4 located in the respective territorial limits of the political subdivisions,  
5 except as provided in this section.  
6 (b) Each board of finance of a political subdivision:  
7 (1) that is not a city, town, or school corporation; and  
8 (2) whose jurisdiction crosses one (1) or more county lines;  
9 may limit its boundaries for the purpose of this section to that portion  
10 of the political subdivision within the county where its principal office  
11 is located.  
12 (c) If there is no principal office or branch of a financial institution  
13 located in the county or political subdivision, or if no financial  
14 institution with a principal office or branch in the county or political  
15 subdivision will accept public funds under this chapter, the board of  
16 finance of the county and the boards of finance of the political  
17 subdivisions in the county shall designate one (1) or more financial

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institutions with a principal office or branch outside of the county or political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

(1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and

(2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

**(f) The investing officer shall maintain the deposits as follows:**

**(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000).**

**(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.**

**(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.**

SECTION 2. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository. ~~The fiscal body of a political subdivision shall require the investing officer to deposit and maintain deposits that are invested or reinvested under this subsection as follows:~~

~~(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all of the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000):~~

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(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and less than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

**(b) The term of a renewed contract may not be longer than the term of the original contract.**

**(c) A contract may be renewed any number of times.**

SECTION 4. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a) The proper officers of a political subdivision may transfer money from one major budget**

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classification to another within a department or office if:

- (1) they determine that the transfer is necessary;
- (2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**
- (3) the transfer is made at a regular public meeting and by proper ordinance or resolution. ~~and~~
- ~~(4) the transfer is certified to the county auditor.~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 5. IC 6-1.1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Notwithstanding the other provisions of this chapter, the ~~appropriating body~~ **fiscal officer** of a political subdivision may appropriate funds received from an insurance company if:

- (1) the funds are received as a result of damage to property of the political subdivision; and
- (2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.

SECTION 6. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

- (1) by registered or certified mail;
- (2) in person by the county treasurer or ~~his deputy~~; **the county treasurer's agent**; or
- (3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
- (2) the amount of the delinquent taxes;
- (3) the penalties due on the delinquent taxes;
- (4) the collection expenses which the taxpayer owes; and
- (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold



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1 to satisfy the total amount due plus the additional collection  
2 expenses incurred; or

3 (B) a judgment may be entered against the taxpayer in the  
4 circuit court of the county.

5 SECTION 7. IC 6-1.1-26-6 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Notwithstanding  
7 the other provisions of this chapter, each county treasurer shall place  
8 the portion of a tax or special assessment payment which exceeds the  
9 amount actually due, as shown by the tax duplicate or special  
10 assessment records, in a special fund to be known as the "surplus tax  
11 fund". Amounts placed in the fund shall first be applied to the  
12 taxpayer's delinquent taxes in the manner provided in IC 6-1.1-23-5(b).  
13 The taxpayer may ~~then~~ **at any time** file a verified claim for money  
14 remaining in the surplus tax fund. **The claim must include the**  
15 **taxpayer's proof of payment.** The county treasurer or county auditor  
16 shall require reasonable proof of payment by the ~~person~~ **taxpayer**  
17 making the claim. **Not later than fourteen (14) days after the filing**  
18 **of the claim, the county auditor and the county treasurer shall**  
19 **approve or disapprove the claim.** If the claim is approved by the  
20 county auditor and the county treasurer, the county auditor shall issue  
21 a warrant to the taxpayer **not later than ten (10) days after the date**  
22 **of approval** for the amount due the taxpayer.

23 (b) Not less frequently than at the time of each semiannual  
24 settlement, the county treasurer shall prepare duplicate schedules of all  
25 excess payments received. The schedules shall contain the name on the  
26 tax duplicate, the amount of excess paid, and the taxing district. The  
27 county treasurer shall deliver one (1) copy of the schedule to the county  
28 auditor. Within fifteen (15) days after receiving the schedule, the  
29 county auditor shall review the schedule, and if the county auditor  
30 concurs with the schedule, the county auditor shall notify the county  
31 treasurer that the notice required under subsection (d) may be sent. The  
32 county auditor shall preserve the schedule, and if a refund is  
33 subsequently made, he shall note on the schedule and notify the county  
34 treasurer of the date and amount of the refund. In addition, when  
35 money is transferred from the surplus tax fund to the county general  
36 fund under subsection (c), the county auditor shall note the date and  
37 amount of the transfer on the schedule.

38 (c) If an excess payment is not claimed within the three (3) year  
39 period after November 10 of the year in which the payment was made  
40 and the county treasurer has given the written notice required under  
41 subsection (d), the county auditor shall transfer the excess from the  
42 surplus tax fund into the general fund of the county. If the county

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1 treasurer has given written notice concerning the excess under  
 2 subsection (d), the excess may not be refunded under subsection (a)  
 3 after the expiration of that three (3) year time period.

4 (d) This subsection applies only if the amount of an excess payment  
 5 is more than five dollars (\$5) and exceeds the amount applied under  
 6 subsection (a) to property taxes that are delinquent at the time that the  
 7 excess payment is transferred to the surplus tax fund. Not later than  
 8 forty-five (45) days after receiving the notification from the county  
 9 auditor under subsection (b), the county treasurer shall give the  
 10 taxpayer who made the excess payment written notice that the taxpayer  
 11 may be entitled to a refund. The notice shall be mailed to the last  
 12 known address of the taxpayer as listed on the tax duplicate or the most  
 13 current record of the county treasurer. The notice must contain at least  
 14 the following information:

15 (1) A statement that the taxpayer may be entitled to a refund  
 16 because the taxpayer made an excess payment.

17 (2) The amount of the refund.

18 (3) Instructions on how to claim the refund.

19 (4) The date before which the refund must be claimed under  
 20 subsection (c).

21 (5) An explanation that the amount of the refund will be reduced  
 22 by any amount applied to property taxes that are delinquent.

23 SECTION 8. IC 8-17-4.1-5 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The governing body  
 25 shall prepare by ~~December 31~~ **April 15** of each year an operational  
 26 report **for the prior calendar year** of the department within the county  
 27 or municipality that has road and street responsibilities.

28 SECTION 9. IC 8-17-4.1-6 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a)~~ This report shall  
 30 be prepared on forms prescribed by the state board of accounts and  
 31 must disclose ~~for the calendar year the following:~~

32 ~~(1) The receipts of the department and the sources of the receipts.~~

33 ~~(2) The expenditures of the department showing the purpose of~~  
 34 ~~each expenditure made and to account for all funds.~~

35 ~~(3) The number of employees of the department each month and~~  
 36 ~~the work classifications of the employees.~~

37 ~~(4) The proposed construction, reconstruction, and repair program~~  
 38 ~~following the year of the annual report.~~

39 ~~(5) The maintenance expenses.~~

40 ~~(b) The report must also include other all~~ information considered  
 41 necessary by the state board of accounts to reflect the financial  
 42 condition and operations of the department.



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SECTION 10. IC 8-17-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The annual operational report must be completed and a copy filed with the state board of accounts, the governing body, and the department by ~~February 15~~ **June 1** following the operational report year. The department shall make the report available to the public.

SECTION 11. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass transportation fund is established for the purpose of promoting and developing public mass transportation in Indiana. The fund shall be administered by the department.

(b) The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund.

~~(d) Money distributed from the fund in a county containing a consolidated city must be distributed to the consolidated city for promoting and developing public mass transportation and not to a public transportation corporation located within the county.~~

SECTION 12. IC 20-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced persons of at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding their appointment. The members shall be appointed for two (2) year terms as follows:

(1) The board of commissioners of the county where the library is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the respective vacancy. The appointing authority may at any time, for cause shown, remove any member of the library board and appoint a new member to fill the vacancy occasioned by this removal.

(c) The library board members shall serve without compensation.



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(d) All appointments to membership on the library board shall be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be handed to or mailed to the address of the appointee. Within ten (10) days after receiving the certificates of appointment, the appointees shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge ~~his~~ **the appointee's** duties as a member of the library board to the best of ~~his~~ **the appointee's** ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Within five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) of their number president, one (1) vice president, and one (1) secretary. They shall also select committees or an executive board to carry on the work of the board should they determine that committees or an executive board is necessary for this purpose.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of the sources of all receipts, of all disbursements made, and of the purpose for which each was made. This annual report may be inspected by the citizens of the municipality and township in which the library is located.

SECTION 13. IC 36-1-8-5, AS AMENDED BY P.L.251-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.



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(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

**(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.**

SECTION 14. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~to receive transfers of unused and unencumbered funds under section 5 of this chapter.~~ **by the adoption of:**

**(1) an ordinance, in the case of a county, city, or town; or**

**(2) a resolution, in the case of any other political subdivision.**

(b) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. ~~Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.~~

(c) In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's total budget for that fiscal year to the rainy day fund.



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(d) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 15. IC 36-1-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

- (1) credit card;
- (2) debit card;
- (3) charge card; or
- (4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

- (1) Cash.
- (2) Check.
- (3) Bank draft.
- (4) Money order.
- (5) Bank card or credit card.
- (6) Electronic funds transfer.
- (7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, ~~other than a bank card or credit card;~~ the political subdivision or municipally owned utility ~~shall~~ **may** collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial

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instruments to transfer funds to the political subdivision.

SECTION 16. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county treasurer performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city.~~

~~(b)~~ This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 17. IC 36-4-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

(b) An ordinance adopted under this section:

(1) must include the terms of the bonds to be issued in evidence of the loan;

(2) must include the time and manner of giving notice of the sale of the bonds;

(3) must include the manner in which the bonds will be sold; and

(4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by a city under this section:

(1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;

(2) may bear interest at any rate;

(3) may run not longer than thirty (30) years;

(4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and

(5) may be sold for not less than par value.

(e) The city fiscal officer shall:

(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the

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- terms of the ordinance authorizing the sale;
- (2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;
- (3) receive the amount of payment certified;
- (4) deliver the bonds to the purchaser;
- (5) take a receipt for the securities delivered;
- (6) pay the purchaser's payment into the city treasury; and
- (7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

~~(f) This subsection applies only to second class cities subject to IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city selling bonds under this section shall deliver them to the county treasurer after they have been properly executed and shall take his receipt for them. When a contract for the sale of all or any part of the bonds is consummated, the fiscal officer shall certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser. The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall proceed under subsection (e).~~

SECTION 18. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of office expires, the executive shall:

- (1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;
- (2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and
- (3) attend the annual meeting of the township legislative body ~~on the second Tuesday after the first Monday in the next January,~~ **held under IC 36-6-6-9** and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 19. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by



1 the claimant and approved by the officer in whose office he is  
2 employed.

3 SECTION 20. IC 36-6-8-11 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and  
5 other employees of a township assessor must file their claims for  
6 compensation, which must be verified by the township assessor. Claims  
7 for employment that is not on an annual basis must show the actual  
8 number of days employed. Deputies and other employees of a township  
9 assessor shall be paid ~~monthly~~ out of the county treasury, on the  
10 warrant of the county auditor.

11 (b) Employees of the township assessor are entitled to no  
12 compensation other than that provided by this chapter.

13 SECTION 21. IC 36-8-3-3, AS AMENDED BY P.L.125-2001,  
14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2003]: Sec. 3. (a) A majority of the members of the safety  
16 board constitutes a quorum. The board shall adopt rules concerning the  
17 time of holding regular and special meetings and of giving notice of  
18 them. The board shall elect one (1) of its members chairman, who  
19 holds the position as long as prescribed by the rules of the board. The  
20 board shall record all of its proceedings.

21 (b) The members of the safety board may act only as a board. No  
22 member may bind the board or the city except by resolution entered in  
23 the records of the board authorizing him to act in its behalf as its  
24 authorized agent.

25 (c) The safety board shall appoint:

- 26 (1) the members and other employees of the police department
- 27 other than those in an upper level policymaking position;
- 28 (2) the members and other employees of the fire department other
- 29 than those in an upper level policymaking position;
- 30 (3) a market master; and
- 31 (4) other officials that are necessary for public safety purposes.

32 (d) The annual compensation of all members of the police and fire  
33 departments and other appointees shall be fixed by ordinance of the  
34 legislative body before:

- 35 (1) ~~August~~ **September** 20 for a second class city; and
- 36 (2) September 20 for a third class city;

37 of each year for the ensuing budget year. The ordinance may grade the  
38 members of the departments and regulate their pay by rank as well as  
39 by length of service. If the legislative body fails to adopt an ordinance  
40 fixing the compensation of members of the police or fire department,  
41 the safety board may fix their compensation, subject to change by  
42 ordinance.



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(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey his orders and directions, notwithstanding any law or rule to the contrary.

SECTION 22. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not more than nine (9) trustees, as follows:

(1) The municipal executive, the municipal fiscal officer, ~~(except in a city subject to IC 36-4-10-6, in which case the county treasurer)~~, and the police chief, who are ex officio voting members of the local board.

(2) One (1) retired member of the police department.

(3) At least three (3) but not more than five (5) active members of the police department.

However, in cities where there are not sufficient members of the police department to appoint a local board consisting of at least five (5) trustees, the local board may be composed of three (3) trustees, those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be elected at a meeting of the members of the police department at the central police station on the second Monday in February of each year. The trustees are elected for terms of three (3) years, succeeding those trustees whose terms of office expire on that date. The trustees hold their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the police department shall, within a reasonable time, hold a special meeting upon the call of the municipal executive and elect a successor for the remainder of the trustee's term.

(e) A majority of all the trustees constitutes a quorum for the



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1 transaction of business.

2 (f) The trustees receive no pay for their services and shall be paid  
3 only their necessary expenses. However, the trustees, the secretary, and  
4 each member of the police department selected by the local board shall  
5 be paid their necessary traveling expenses from the 1925 fund when  
6 acting upon matters pertaining to the fund.

7 (g) The local board may make all necessary bylaws for:

8 (1) meetings of the trustees;

9 (2) the manner of their election, including the counting and  
10 canvassing of the votes;

11 (3) the collection of all money and other property due or  
12 belonging to the 1925 fund;

13 (4) all matters connected with the care, preservation, and  
14 disbursement of the fund; and

15 (5) all other matters connected with the proper execution of this  
16 chapter.

17 SECTION 23. IC 36-8-6-3 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal  
19 executive is president of the local board, the municipal fiscal officer ~~(or~~  
20 ~~county treasurer)~~ is its treasurer, and the local board shall select one (1)  
21 of its members secretary. The secretary shall be paid out of the 1925  
22 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

23 (b) The president shall preside over all meetings of the local board,  
24 call special meetings of the police department of the city, and preside  
25 over the annual and called meetings of the department concerning the  
26 1925 fund.

27 (c) The treasurer:

28 (1) has custody of all money and securities due or belonging to  
29 the 1925 fund and shall collect the principal and interest on them;

30 (2) is liable on ~~his~~ **the treasurer's** bond as an officer for the  
31 municipality for the faithful accounting of all money and  
32 securities belonging to the fund that come into ~~his~~ **the treasurer's**  
33 hands;

34 (3) shall keep a separate account showing at all times the true  
35 condition of the fund; and

36 (4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office,  
37 account to the local board for all money and securities coming  
38 into ~~his~~ **the treasurer's** hands, including the proceeds of them,  
39 and turn over to ~~his~~ **the treasurer's** successor all money and  
40 securities belonging to the fund remaining in ~~his~~ **the treasurer's**  
41 hands.

42 (d) The secretary shall:

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(1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;

(2) keep a correct statement of the accounts of each member with the fund;

(3) collect and turn over to the treasurer of the local board all money belonging to the fund;

(4) give the local board a monthly account of ~~his~~ **the secretary's** acts and services as secretary; and

(5) turn over to ~~his~~ **the secretary's** successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's** duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into ~~his~~ **the secretary's** hands.

SECTION 24. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under

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Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6~~, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer ~~(or county treasurer)~~ shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he~~ **the fiscal officer** will faithfully discharge the duties of ~~his~~ **the fiscal officer's** office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his~~ **the fiscal officer's** hands by virtue of ~~his~~ **the fiscal officer's** office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer ~~(or county treasurer)~~ until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 25. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, ~~(or county treasurer)~~, who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 26. IC 36-8-7-23 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal  
 2 officer ~~or county treasurer acting under IC 36-4-10-6~~, is the custodian  
 3 of all money belonging to the 1937 fund, and all money belonging to  
 4 the fund shall be promptly paid to the officer. The officer is liable on  
 5 ~~his~~ **the officer's** bond for the faithful performance of all duties imposed  
 6 upon ~~him~~ **the officer** by this chapter in relation to the fund and for the  
 7 faithful accounting of all money and securities that come into ~~his~~ **the**  
 8 **officer's** possession and belong to the fund. The officer shall keep a  
 9 separate account of the 1937 fund, which must always show the true  
 10 condition of the fund.

11 SECTION 27. IC 36-8-12.2-8, AS ADDED BY P.L.33-2001,  
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2003]: Sec. 8. **(a)** Money collected under this chapter must be  
 14 deposited in **one (1) of the following**:

15 **(1) The general fund of the unit that established the fire**  
 16 **department under IC 36-8-2-3 or IC 36-8-13-3(a)(1). and**

17 **(2) A hazardous materials response fund established under**  
 18 **section 8.1 of this chapter by a city or town having a fire**  
 19 **department established under IC 36-8-2-3.**

20 **(b) Money collected under this chapter** may be used only for the  
 21 following:

22 (1) Purchase of supplies and equipment used in providing  
 23 hazardous materials emergency assistance under this chapter.

24 (2) Training for members of the fire department in skills  
 25 necessary for providing hazardous materials emergency assistance  
 26 under this chapter.

27 (3) Payment to persons with which the fire department contracts  
 28 to provide services related to the hazardous materials emergency  
 29 assistance provided by the fire department under this chapter.

30 SECTION 28. IC 36-8-12.2-8.1 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2003]: **Sec. 8.1. (a) The fiscal body of each**  
 33 **city or town that establishes a fire department under IC 36-8-2-3**  
 34 **may, by ordinance or resolution, establish a hazardous materials**  
 35 **response fund.**

36 **(b) The hazardous materials response fund shall be**  
 37 **administered by the unit's fiscal officer, and the expenses of**  
 38 **administering the fund shall be paid from money in the fund.**  
 39 **Money in the fund not currently needed to meet the obligations of**  
 40 **the fund may be invested in the same manner as other public funds**  
 41 **may be invested. Interest that accrues from these investments shall**  
 42 **be deposited in the fund. Money in the fund at the end of a**



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1 **particular fiscal year does not revert to the unit's general fund.**

2 SECTION 29. IC 36-10-4-16 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the  
4 taxable property in the district, as it appears on the tax duplicate, shall  
5 be levied annually by the city legislative body for park purposes.

6 (b) The tax shall be collected the same as other city taxes are  
7 collected, and the city fiscal officer ~~(or county treasurer acting under~~  
8 ~~IC 36-4-10-6)~~ shall, between the first and fifth days of each month,  
9 notify the board of the amount of taxes collected for park purposes  
10 during the preceding month. At the date of notification, the city fiscal  
11 officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

12 (c) The board may expend on behalf of the city all sums of money  
13 collected from:

- 14 (1) taxes;
- 15 (2) the sale of privileges in the parks of the city;
- 16 (3) the sale of bonds of the city for park purposes; and
- 17 (4) any other source.

18 All gifts, donations, or payments that are given or paid to the city for  
19 park purposes belong to the general park fund, the special nonreverting  
20 operating fund, or the special nonreverting capital fund to be used by  
21 the board as provided by this chapter. Warrants for expenditures shall  
22 be drawn by the city fiscal officer upon a voucher of the board signed  
23 by the president or vice president and secretary.

24 (d) The city legislative body may borrow money for the use of the  
25 department and may issue the bonds of the city to pay back the  
26 borrowed money in the manner provided by statute for the issue of  
27 bonds for the general purposes of the city. However, the board may not  
28 contract debts beyond the amount of its annual income and the amount  
29 available from the sale of bonds or other sources.

30 (e) All money remaining in the treasury to the credit of the board at  
31 the end of the calendar year belongs to the general park fund, the  
32 special nonreverting operating fund, or the special nonreverting capital  
33 fund for use by the board for park purposes.

34 (f) Park and recreation facilities and programs shall be made  
35 available to the public free of charge as far as possible. However, if it  
36 is necessary in order to provide a particular activity, the board may  
37 charge a reasonable fee.

38 (g) The city legislative body may establish by ordinance upon  
39 request of the board:

- 40 (1) a special nonreverting operating fund for park purposes from
- 41 which expenditures may be made as provided by ordinance, either
- 42 by appropriation by the board or by the city legislative body; or



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(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer (~~or county treasurer~~) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the city fiscal officer (~~or county treasurer~~) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

SECTION 30. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 31. [EFFECTIVE JULY 1, 2003] **(a) The state board of accounts shall review the format and content of the annual operational report required under IC 8-17-4.1-5, as amended by this act, and shall prescribe a streamlined report that addresses:**

- (1) easing the preparation of;**
- (2) the informational requirements of the users of; and**
- (3) the promotion of accuracy within;**

**the revised report.**

**(b) This SECTION expires January 1, 2004.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1242, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, between lines 5 and 6, insert:

"SECTION 11. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of office expires, the executive shall:

- (1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;
- (2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and
- (3) attend the annual meeting of the township legislative body ~~on the second Tuesday after the first Monday in the next January,~~ **held under IC 36-6-6-9** and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 12. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by the claimant and approved by the officer in whose office he is employed.

SECTION 13. IC 36-6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid ~~monthly~~ out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

SECTION 14. IC 36-7-4-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 311. (a) ADVISORY. The advisory plan commission may appoint, prescribe the duties, and fix the compensation of such employees as are necessary for the discharge of the duties of the commission. This compensation must be in conformity with salaries and compensation fixed up to that time by

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the fiscal body of the municipality or county, as the case may be. The commission may contract for special or temporary services and any professional counsel.

(b) AREA.

(1) ~~Except as provided in subdivision (2),~~ The area plan commission shall appoint an executive director for the planning department and fix the director's compensation. To be qualified for the position, the executive director must have training and experience in the field of planning and zoning. The commission may not give any consideration to political affiliation in the appointment of the executive director.

(2) ~~This subdivision applies to an area plan commission of a county in which the largest city has a population of less than twenty-five thousand (25,000) or to a county that has no cities. When there is a vacancy in the position of executive director of the planning department, the area plan commission shall give to the county commissioners the name of a person recommended for the position. The county commissioners shall appoint an executive director who may be the person recommended by the area plan commission. The county commissioners may remove the executive director. The county commissioners shall fix the director's compensation. To be qualified for the position, an executive director must have training and experience in the field of planning and zoning. In making the appointment, the county commissioners may not give any consideration to political affiliation of the executive director."~~

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1242 as introduced.)

MOSES, Chair

Committee Vote: yeas 13, nays 0.



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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred House Bill No. 1242, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

**(b) The term of a renewed contract may not be longer than the term of the original contract.**

**(c) A contract may be renewed any number of times."**

Page 4, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 6. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

- (1) by registered or certified mail;
- (2) in person by the county treasurer or ~~his deputy~~; **the county treasurer's agent**; or
- (3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
- (2) the amount of the delinquent taxes;
- (3) the penalties due on the delinquent taxes;
- (4) the collection expenses which the taxpayer owes; and
- (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:
  - (A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or
  - (B) a judgment may be entered against the taxpayer in the



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circuit court of the county.

SECTION 7. IC 6-1.1-26-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Notwithstanding the other provisions of this chapter, each county treasurer shall place the portion of a tax or special assessment payment which exceeds the amount actually due, as shown by the tax duplicate or special assessment records, in a special fund to be known as the "surplus tax fund". Amounts placed in the fund shall first be applied to the taxpayer's delinquent taxes in the manner provided in IC 6-1.1-23-5(b). The taxpayer may ~~then~~ **at any time** file a verified claim for money remaining in the surplus tax fund. **The claim must include the taxpayer's proof of payment.** The county treasurer or county auditor shall require reasonable proof of payment by the ~~person~~ **taxpayer** making the claim. **Not later than fourteen (14) days after the filing of the claim, the county auditor and the county treasurer shall approve or disapprove the claim.** If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the taxpayer **not later than ten (10) days after the date of approval** for the amount due the taxpayer.

(b) Not less frequently than at the time of each semiannual settlement, the county treasurer shall prepare duplicate schedules of all excess payments received. The schedules shall contain the name on the tax duplicate, the amount of excess paid, and the taxing district. The county treasurer shall deliver one (1) copy of the schedule to the county auditor. Within fifteen (15) days after receiving the schedule, the county auditor shall review the schedule, and if the county auditor concurs with the schedule, the county auditor shall notify the county treasurer that the notice required under subsection (d) may be sent. The county auditor shall preserve the schedule, and if a refund is subsequently made, he shall note on the schedule and notify the county treasurer of the date and amount of the refund. In addition, when money is transferred from the surplus tax fund to the county general fund under subsection (c), the county auditor shall note the date and amount of the transfer on the schedule.

(c) If an excess payment is not claimed within the three (3) year period after November 10 of the year in which the payment was made and the county treasurer has given the written notice required under subsection (d), the county auditor shall transfer the excess from the surplus tax fund into the general fund of the county. If the county treasurer has given written notice concerning the excess under subsection (d), the excess may not be refunded under subsection (a) after the expiration of that three (3) year time period.

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(d) This subsection applies only if the amount of an excess payment is more than five dollars (\$5) and exceeds the amount applied under subsection (a) to property taxes that are delinquent at the time that the excess payment is transferred to the surplus tax fund. Not later than forty-five (45) days after receiving the notification from the county auditor under subsection (b), the county treasurer shall give the taxpayer who made the excess payment written notice that the taxpayer may be entitled to a refund. The notice shall be mailed to the last known address of the taxpayer as listed on the tax duplicate or the most current record of the county treasurer. The notice must contain at least the following information:

- (1) A statement that the taxpayer may be entitled to a refund because the taxpayer made an excess payment.
- (2) The amount of the refund.
- (3) Instructions on how to claim the refund.
- (4) The date before which the refund must be claimed under subsection (c).
- (5) An explanation that the amount of the refund will be reduced by any amount applied to property taxes that are delinquent."

Page 4, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 11. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass transportation fund is established for the purpose of promoting and developing public mass transportation in Indiana. The fund shall be administered by the department.

(b) The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund.

~~(d) Money distributed from the fund in a county containing a consolidated city must be distributed to the consolidated city for promoting and developing public mass transportation and not to a public transportation corporation located within the county.~~

SECTION 12. IC 20-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced persons of at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding their appointment. The members shall be appointed for two (2) year terms as follows:

- (1) The board of commissioners of the county where the library



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is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the respective vacancy. The appointing authority may at any time, for cause shown, remove any member of the library board and appoint a new member to fill the vacancy occasioned by this removal.

(c) The library board members shall serve without compensation.

(d) All appointments to membership on the library board shall be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be handed to or mailed to the address of the appointee. Within ten (10) days after receiving the certificates of appointment, the appointees shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge ~~his the appointee's~~ duties as a member of the library board to the best of ~~his the appointee's~~ ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Within five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) of their number president, one (1) vice president, and one (1) secretary. They shall also select committees or an executive board to carry on the work of the board should they determine that committees or an executive board is necessary for this purpose.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of the sources of all receipts, of all disbursements made, and of the purpose for which each was made. This

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annual report may be inspected by the citizens of the municipality and township in which the library is located."

Page 5, line 37, strike "to receive transfers of unused and".

Page 5, line 38, strike "unencumbered funds".

Page 5, line 38, delete "made".

Page 5, line 38, strike "under section 5 of this chapter." and insert  
"by the adoption of:

**(1) an ordinance, in the case of a county, city, or town; or**

**(2) a resolution, in the case of any other political subdivision."**

Page 7, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 17. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county treasurer performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city.~~

~~(b)~~ This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 18. IC 36-4-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

(b) An ordinance adopted under this section:

(1) must include the terms of the bonds to be issued in evidence of the loan;

(2) must include the time and manner of giving notice of the sale of the bonds;

(3) must include the manner in which the bonds will be sold; and

(4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by a city under this section:

(1) are negotiable with or without registration, as may be provided

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- by the ordinance authorizing the issue;
- (2) may bear interest at any rate;
- (3) may run not longer than thirty (30) years;
- (4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and
- (5) may be sold for not less than par value.
- (e) The city fiscal officer shall:
  - (1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;
  - (2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;
  - (3) receive the amount of payment certified;
  - (4) deliver the bonds to the purchaser;
  - (5) take a receipt for the securities delivered;
  - (6) pay the purchaser's payment into the city treasury; and
  - (7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

~~(f) This subsection applies only to second class cities subject to IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city selling bonds under this section shall deliver them to the county treasurer after they have been properly executed and shall take his receipt for them. When a contract for the sale of all or any part of the bonds is consummated, the fiscal officer shall certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser. The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall proceed under subsection (e)."~~

Page 7, delete lines 36 through 42.

Page 8, delete lines 1 through 25.

Page 9, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 22. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not



more than nine (9) trustees, as follows:

- (1) The municipal executive, the municipal fiscal officer, ~~(except in a city subject to IC 36-4-10-6, in which case the county treasurer)~~; and the police chief, who are ex officio voting members of the local board.
- (2) One (1) retired member of the police department.
- (3) At least three (3) but not more than five (5) active members of the police department.

However, in cities where there are not sufficient members of the police department to appoint a local board consisting of at least five (5) trustees, the local board may be composed of three (3) trustees, those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be elected at a meeting of the members of the police department at the central police station on the second Monday in February of each year. The trustees are elected for terms of three (3) years, succeeding those trustees whose terms of office expire on that date. The trustees hold their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the police department shall, within a reasonable time, hold a special meeting upon the call of the municipal executive and elect a successor for the remainder of the trustee's term.

(e) A majority of all the trustees constitutes a quorum for the transaction of business.

(f) The trustees receive no pay for their services and shall be paid only their necessary expenses. However, the trustees, the secretary, and each member of the police department selected by the local board shall be paid their necessary traveling expenses from the 1925 fund when acting upon matters pertaining to the fund.

(g) The local board may make all necessary bylaws for:

- (1) meetings of the trustees;
- (2) the manner of their election, including the counting and canvassing of the votes;
- (3) the collection of all money and other property due or belonging to the 1925 fund;
- (4) all matters connected with the care, preservation, and disbursement of the fund; and
- (5) all other matters connected with the proper execution of this chapter.

SECTION 23. IC 36-8-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal executive is president of the local board, the municipal fiscal officer ~~(or~~

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~~county treasurer~~) is its treasurer, and the local board shall select one (1) of its members secretary. The secretary shall be paid out of the 1925 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

(b) The president shall preside over all meetings of the local board, call special meetings of the police department of the city, and preside over the annual and called meetings of the department concerning the 1925 fund.

(c) The treasurer:

- (1) has custody of all money and securities due or belonging to the 1925 fund and shall collect the principal and interest on them;
- (2) is liable on ~~his~~ **the treasurer's** bond as an officer for the municipality for the faithful accounting of all money and securities belonging to the fund that come into ~~his~~ **the treasurer's** hands;
- (3) shall keep a separate account showing at all times the true condition of the fund; and
- (4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office, account to the local board for all money and securities coming into ~~his~~ **the treasurer's** hands, including the proceeds of them, and turn over to ~~his~~ **the treasurer's** successor all money and securities belonging to the fund remaining in ~~his~~ **the treasurer's** hands.

(d) The secretary shall:

- (1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;
- (2) keep a correct statement of the accounts of each member with the fund;
- (3) collect and turn over to the treasurer of the local board all money belonging to the fund;
- (4) give the local board a monthly account of ~~his~~ **the secretary's** acts and services as secretary; and
- (5) turn over to ~~his~~ **the secretary's** successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's** duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

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(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into ~~his the~~ **secretary's** hands.

SECTION 24. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6~~, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (~~or county treasurer~~) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he the fiscal officer~~ **the fiscal officer** will faithfully discharge the duties of ~~his the fiscal officer's~~ office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his the fiscal officer's~~ hands by virtue of ~~his the fiscal officer's~~ office. The bond and sureties must be

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approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer ~~(or county treasurer)~~ until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 25. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, ~~(or county treasurer)~~, who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 26. IC 36-8-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal officer ~~or county treasurer acting under IC 36-4-10-6~~, is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on ~~him~~ **the officer's** bond for the faithful performance of all duties imposed upon ~~him~~ **the officer** by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into ~~his~~ **the officer's** possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund."

Page 10, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 28. IC 36-10-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the taxable property in the district, as it appears on the tax duplicate, shall be levied annually by the city legislative body for park purposes.

(b) The tax shall be collected the same as other city taxes are collected, and the city fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ shall, between the first and fifth days of each month, notify the board of the amount of taxes collected for park purposes



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during the preceding month. At the date of notification, the city fiscal officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

(c) The board may expend on behalf of the city all sums of money collected from:

- (1) taxes;
- (2) the sale of privileges in the parks of the city;
- (3) the sale of bonds of the city for park purposes; and
- (4) any other source.

All gifts, donations, or payments that are given or paid to the city for park purposes belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the board as provided by this chapter. Warrants for expenditures shall be drawn by the city fiscal officer upon a voucher of the board signed by the president or vice president and secretary.

(d) The city legislative body may borrow money for the use of the department and may issue the bonds of the city to pay back the borrowed money in the manner provided by statute for the issue of bonds for the general purposes of the city. However, the board may not contract debts beyond the amount of its annual income and the amount available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

- (1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or
- (2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer ~~(or county treasurer)~~ shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the

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sale of surplus property shall be deposited by the city fiscal officer ~~(or county treasurer)~~ either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

SECTION 29. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1, 2003]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1242 as printed February 19, 2003.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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